

## REFERENCES IN TEXT

Section 51 of this title, referred to in subsec. (d), was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 642.

## CODIFICATION

Provisions of subsec. (a) which prescribed the basic annual compensation of the Director were omitted to conform to the provisions of the Executive Schedule. See section 5314 of Title 5, Government Organization and Employees.

In subsec. (b), “chapter 51 and subchapter III of chapter 53 of title 5” substituted for “the Classification Act of 1949, as amended” on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5.

Provisions of subsec. (b) that authorized the Director to fix the compensation of conciliators and mediators without regard to the Classification Act of 1923, as amended, have been omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exceptions contained in this section because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Pub. L. 89-554, Sept. 6, 1966, § 8(a), 80 Stat. 632 (of which section 1 revised and enacted Title 5, Government Organization and Employees, into law). Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

## AMENDMENTS

1949—Subsec. (b). Act Oct. 28, 1949, substituted “Classification Act of 1949” for “Classification Act of 1923”.

## REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

## TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c) requiring the Director to make an annual report in writing to Congress at the end of the fiscal year, see section 3003 of Pub. L. 104-66, set out as a note under section 1113 of Title 31, Money and Finance, and page 171 of House Document No. 103-7.

**§ 173. Functions of Service****(a) Settlement of disputes through conciliation and mediation**

It shall be the duty of the Service, in order to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes, to assist parties to labor disputes in industries affecting commerce to settle such disputes through conciliation and mediation.

**(b) Intervention on motion of Service or request of parties; avoidance of mediation of minor disputes**

The Service may proffer its services in any labor dispute in any industry affecting commerce, either upon its own motion or upon the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial interruption of

commerce. The Director and the Service are directed to avoid attempting to mediate disputes which would have only a minor effect on interstate commerce if State or other conciliation services are available to the parties. Whenever the Service does proffer its services in any dispute, it shall be the duty of the Service promptly to put itself in communication with the parties and to use its best efforts, by mediation and conciliation, to bring them to agreement.

**(c) Settlement of disputes by other means upon failure of conciliation**

If the Director is not able to bring the parties to agreement by conciliation within a reasonable time, he shall seek to induce the parties voluntarily to seek other means of settling the dispute without resort to strike, lock-out, or other coercion, including submission to the employees in the bargaining unit of the employer's last offer of settlement for approval or rejection in a secret ballot. The failure or refusal of either party to agree to any procedure suggested by the Director shall not be deemed a violation of any duty or obligation imposed by this chapter.

**(d) Use of conciliation and mediation services as last resort**

Final adjustment by a method agreed upon by the parties is declared to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective-bargaining agreement. The Service is directed to make its conciliation and mediation services available in the settlement of such grievance disputes only as a last resort and in exceptional cases.

**(e) Encouragement and support of establishment and operation of joint labor management activities conducted by committees**

The Service is authorized and directed to encourage and support the establishment and operation of joint labor management activities conducted by plant, area, and industrywide committees designed to improve labor management relationships, job security and organizational effectiveness, in accordance with the provisions of section 175a of this title.

**(f) Use of alternative means of dispute resolution procedures; assignment of neutrals and arbitrators**

The Service may make its services available to Federal agencies to aid in the resolution of disputes under the provisions of subchapter IV of chapter 5 of title 5. Functions performed by the Service may include assisting parties to disputes related to administrative programs, training persons in skills and procedures employed in alternative means of dispute resolution, and furnishing officers and employees of the Service to act as neutrals. Only officers and employees who are qualified in accordance with section 573 of title 5 may be assigned to act as neutrals. The Service shall consult with the agency designated by, or the interagency committee designated or established by, the President under section 573 of title 5 in maintaining rosters of neutrals and arbitrators, and to adopt such procedures and rules as are necessary to carry out the services authorized in this subsection.

(June 23, 1947, ch. 120, title II, § 203, 61 Stat. 153; Pub. L. 95-524, § 6(c)(1), Oct. 27, 1978, 92 Stat. 2020; Pub. L. 101-552, § 7, Nov. 15, 1990, 104 Stat. 2746; Pub. L. 102-354, § 5(b)(5), Aug. 26, 1992, 106 Stat. 946; Pub. L. 104-320, § 4(c), Oct. 19, 1996, 110 Stat. 3871.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act" meaning act June 23, 1947, ch. 120, 61 Stat. 136, as amended, known as the Labor Management Relations Act, 1947, which is classified principally to this subchapter and subchapters III (§ 171 et seq.) and IV (§ 185 et seq.) of this chapter. For complete classification of this act to the Code, see Tables.

#### AMENDMENTS

1996—Subsec. (f). Pub. L. 104-320 substituted "the agency designated by, or the interagency committee designated or established by, the President under section 573 of title 5" for "the Administrative Conference of the United States and other agencies".

1992—Subsec. (f). Pub. L. 102-354 substituted "section 573" for "section 583".

1990—Subsec. (f). Pub. L. 101-552 added subsec. (f).

1978—Subsec. (e). Pub. L. 95-524 added subsec. (e).

#### APPLICABILITY TO COLLECTIVE BARGAINING AGREEMENTS

Amendment by Pub. L. 95-524 not to affect terms and conditions of any collective bargaining agreement whether in effect prior to or entered into after Oct. 27, 1978, see section 6(e) of Pub. L. 95-524, set out as a note under section 175a of this title.

### § 174. Co-equal obligations of employees, their representatives, and management to minimize labor disputes

(a)<sup>1</sup> In order to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes, employers and employees and their representatives, in any industry affecting commerce, shall—

(1) exert every reasonable effort to make and maintain agreements concerning rates of pay, hours, and working conditions, including provision for adequate notice of any proposed change in the terms of such agreements;

(2) whenever a dispute arises over the terms or application of a collective-bargaining agreement and a conference is requested by a party or prospective party thereto, arrange promptly for such a conference to be held and endeavor in such conference to settle such dispute expeditiously; and

(3) in case such dispute is not settled by conference, participate fully and promptly in such meetings as may be undertaken by the Service under this chapter for the purpose of aiding in a settlement of the dispute.

(June 23, 1947, ch. 120, title II, § 204, 61 Stat. 154.)

### § 175. National Labor-Management Panel; creation and composition; appointment, tenure, and compensation; duties

(a) There is created a National Labor-Management Panel which shall be composed of twelve members appointed by the President, six of whom shall be selected from among persons outstanding in the field of management and six of

whom shall be selected from among persons outstanding in the field of labor. Each member shall hold office for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and the terms of office of the members first taking office shall expire, as designated by the President at the time of appointment, four at the end of the first year, four at the end of the second year, and four at the end of the third year after the date of appointment. Members of the panel, when serving on business of the panel, shall be paid compensation at the rate of \$25 per day, and shall also be entitled to receive an allowance for actual and necessary travel and subsistence expenses while so serving away from their places of residence.

(b) It shall be the duty of the panel, at the request of the Director, to advise in the avoidance of industrial controversies and the manner in which mediation and voluntary adjustment shall be administered, particularly with reference to controversies affecting the general welfare of the country.

(June 23, 1947, ch. 120, title II, § 205, 61 Stat. 154.)

### § 175a. Assistance to plant, area, and industry-wide labor management committees

#### (a) Establishment and operation of plant, area, and industrywide committees

(1) The Service is authorized and directed to provide assistance in the establishment and operation of plant, area and industrywide labor management committees which—

(A) have been organized jointly by employers and labor organizations representing employees in that plant, area, or industry; and

(B) are established for the purpose of improving labor management relationships, job security, organizational effectiveness, enhancing economic development or involving workers in decisions affecting their jobs including improving communication with respect to subjects of mutual interest and concern.

(2) The Service is authorized and directed to enter into contracts and to make grants, where necessary or appropriate, to fulfill its responsibilities under this section.

#### (b) Restrictions on grants, contracts, or other assistance

(1) No grant may be made, no contract may be entered into and no other assistance may be provided under the provisions of this section to a plant labor management committee unless the employees in that plant are represented by a labor organization and there is in effect at that plant a collective bargaining agreement.

(2) No grant may be made, no contract may be entered into and no other assistance may be provided under the provisions of this section to an area or industrywide labor management committee unless its participants include any labor organizations certified or recognized as the representative of the employees of an employer participating in such committee. Nothing in this clause shall prohibit participation in an area or industrywide committee by an employer whose

<sup>1</sup> So in original. No subsec. (b) has been enacted.